

STATE OF MICHIGAN  
COURT OF APPEALS

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TINA MARIE STOLL,

Plaintiff-Appellant,

v

EMMET CIRCUIT COURT CHIEF JUDGE,

Defendant-Appellee.

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UNPUBLISHED

October 20, 2016

No. 328998

Emmet Circuit Court

LC No. 15-104919-CZ

Before: MARKEY, P.J., and MURPHY and RONAYNE KRAUSE, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendant's motions for summary disposition pursuant to MCR 2.116(C)(4) (subject matter jurisdiction), (C)(7) (immunity), (C)(8) (failure to state a claim upon which relief can be granted), and (C)(10) (no genuine issue of material fact). We affirm.

I. FACTUAL SUMMARY AND PROCEEDINGS

On April 25, 2013, plaintiff was convicted following a jury trial of armed robbery, MCL 750.529, and assault with intent to commit murder, MCL 750.83. She was sentenced as a second habitual offender, MCL 769.12, to serve 20 to 40 years in prison. This Court affirmed her convictions.<sup>1</sup> In December 2014, while an application for leave to appeal was pending in the Michigan Supreme Court,<sup>2</sup> plaintiff filed a document with the circuit court entitled "Affidavit: In the nature of writ of error coram nobis & demand for dismissal or state the proper jurisdiction" (hereafter, "Writ of error"), in which she alleged that the court lacked jurisdiction over her criminal case. She requested that the court dismiss her criminal case. Plaintiff further asserted that her rights under the First, Fifth, Eighth, Eleventh, Thirteenth, and Fourteenth Amendments to the United States Constitution had been violated as a result of her arrest, trial, and convictions. She further argued that the state of Michigan could not lawfully prosecute her because it was

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<sup>1</sup> *People v Tina Marie Stoll*, unpublished opinion per curiam of the Court of Appeals, issued October 23, 2014 (Docket No. 316864).

<sup>2</sup> Plaintiff's request for leave to appeal to the Supreme Court was later denied. *People v Tina Marie Stoll*, 497 Mich 984; 861 NW2d 283 (2015).

“not a flesh and blood victim,” but rather a “corporation,” and was required to show that it had a “valid contract” in order to pursue charges against her.

The circuit court denied plaintiff’s request for dismissal, noting that the common law writ of *coram nobis*<sup>3</sup> was abolished by GCR 1963, 528.3. Additionally, the court noted that plaintiff’s application for leave to appeal this Court’s decision was pending before our Supreme Court and concluded that any further decisions on plaintiff’s case should be deferred until the appellate matter was concluded. The court stated that after plaintiff had exhausted her appellate remedies, she could seek relief from the circuit court pursuant to MCR 6.500 *et seq.*

On May 1, 2015, plaintiff filed the present civil action alleging that defendant had deprived her of various constitutional rights and had also violated her rights as stated by the Universal Declaration of Human Rights when he failed to dismiss her criminal case pursuant to her Writ of error. Plaintiff also claimed that she had identified errors of fact to the circuit court that rendered all proceedings related to her criminal case invalid. Plaintiff asked the court to dismiss her criminal case with prejudice and order defendant to pay her filing fees.

The circuit court granted defendant summary disposition pursuant to MCR 2.116(C)(4), (7), (8), and (10). It concluded that the court lacked subject matter jurisdiction to grant relief in plaintiff’s criminal case pursuant to her civil action. Additionally, it concluded that none of plaintiff’s allegations established a cause of action over which the court had jurisdiction. The court also concluded that there was no factual dispute that would indicate that defendant’s conduct in relationship to her criminal case was in any way outside the scope of his duties as a circuit judge, and that he was therefore entitled to immunity. Further, the court concluded that “Plaintiff has failed to plead any claim that would be cognizable under Michigan law . . . nor has the Plaintiff sought any relief that would actually be a remedy that this Court would have the jurisdiction to grant in the context of a civil case.” Recognizing that plaintiff was not represented by counsel in her civil action, the court stated that it had “looked for ways to find a claim that would have at least satisfied 2.116(C)(8) in the allegations that she made, . . . [but] just wasn’t able to determine any type of claim that she would have had.” Finally, the court concluded that plaintiff had failed to raise any factual issues.

## II. JURISDICTION AND VENUE

Plaintiff’s argument is confused. She does not expressly challenge the circuit court’s decision granting defendant’s motion for summary disposition pursuant to MCR 2.116(C)(4) based on its conclusion that it lacked subject matter jurisdiction to dismiss her criminal case. Rather, she focuses only on defendant’s alleged lack of jurisdiction to preside over her criminal case and argues that he erred by failing to dismiss it pursuant to her Writ of error. We agree with the circuit court’s determination that it lacked subject matter jurisdiction to grant relief in plaintiff’s criminal case pursuant to her civil action.

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<sup>3</sup> “Coram nobis” is defined as a “writ of error directed to a court for review of its own judgment and predicated on alleged errors of fact.” *Black’s Law Dictionary* (7th ed).

The circuit court is a “court of general jurisdiction,” meaning that it has “original jurisdiction in all matters not prohibited by law . . .” *People v Goecke*, 457 Mich 442, 458; 579 NW2d 868 (1998), citing MCL 600.151; Const 1963, art 6, § 13. “Subject-matter jurisdiction concerns a court’s abstract power to try a case of the kind or character of the one pending and is not dependent on the particular facts of a case.” *Harris v Vernier*, 242 Mich App 306, 319; 617 NW2d 764 (2000). The Michigan Constitution and the Legislature define the class of cases over which courts have subject-matter jurisdiction. *Id.* “It is the right of the court to exercise jurisdiction over a class of cases, such as criminal cases,” and “[s]ubject matter jurisdiction is presumed unless expressly denied by constitution or statute.” *Goecke*, 457 Mich at 458.

In denying plaintiff’s Writ of error, defendant did not reach the issue of whether he had properly presided over her criminal trial. Rather, defendant denied the writ after concluding that it was not properly before the court because plaintiff’s application for leave to appeal from this Court’s decision affirming her convictions was still pending before the Supreme Court. Plaintiff does not argue that the court’s ruling was incorrect; rather, she argues that the proceedings relating to her criminal case were invalid. This argument is without merit, as the circuit court’s authority to preside over her criminal case is well established. See *Goecke*, 457 Mich at 458. Because plaintiff has not cited a statute or a section of the state (or federal) constitution that expressly denied jurisdiction to the circuit court over her criminal case, defendant had subject matter jurisdiction to preside over the case. Moreover, defendant did not err by refusing to dismiss plaintiff’s criminal case as requested in her Writ of error because plaintiff did not cite any error in the proceedings that would warrant such relief.

Further, plaintiff has not cited any authority to establish that she was entitled to seek relief from her criminal convictions in a civil action. MCR 6.501 provides that “[u]nless otherwise specified by these rules, a judgment of conviction and sentence entered by the circuit court not subject to appellate review under subchapters 7.200 or 7.300 may be reviewed only in accordance with the provisions of this subchapter.” Therefore, after she had exhausted her methods for appeal, plaintiff’s remedy was to file a motion for relief from judgment. See MCR 6.502; MCR 6.509. Plaintiff was not entitled to seek relief from her criminal convictions through a civil action, and the circuit court properly found that it lacked the jurisdiction to grant such relief by granting defendant’s motion pursuant to MCR 2.116(C)(4).

Incidentally, plaintiff also claims without any supporting argument or authority that the Emmet Circuit Court was an improper venue for her criminal proceedings. This assertion is not supported by the record. Our Supreme Court has stated that “[t]he general venue rule is that defendants should be tried in the county where the crime was committed.” *People v Houthoofd*, 487 Mich 568, 579; 790 NW2d 315 (2010). Because plaintiff has not asserted that the crime was committed outside of Emmet County, she has not made a case that venue was improper.

### III. JUDICIAL IMMUNITY

Plaintiff also argues that defendant disregarded the law and acted outside the scope of his judicial authority by refusing to dismiss her criminal case. Plaintiff does not further elaborate, other than to repeat her claim that defendant refused to grant the relief requested in her complaint and Writ of error. Plaintiff “may not merely announce [her] position and leave it to this Court to discover and rationalize the basis for [her] claims.” *People v Kelly*, 231 Mich App 627, 640-641;

588 NW2d 480 (1998). Notwithstanding plaintiff's failure to include a comprehensive argument, based on the available information, we agree with the circuit court's conclusion that there was no factual dispute about the role that defendant played in plaintiff's criminal case. Plaintiff did not raise any factual issues in her complaint or in her Writ of error suggesting that defendant's conduct relating to her criminal case was outside the scope of his duties as a circuit court judge. In *Diehl v Danuloff*, 242 Mich App 120, 128; 618 NW2d 83 (2000), we held that "judges are accorded absolute immunity for acts performed in the exercise of their judicial functions." Because plaintiff has not alleged facts indicating that defendant acted outside the scope of his authority, the circuit court's finding that he was entitled to immunity pursuant to MCL 2.116(C)(7) was not error.

Affirmed.

/s/ Jane E. Markey

/s/ William B. Murphy

/s/ Amy Ronayne Krause